

## **Minutes of Special and Regular Meeting of June 28, 2011**

One Twin Pines Lane

### **CLOSED SESSION – 6:30 P.M.**

- A. Conference with Labor Negotiator, Greg Scoles, pursuant to Government Code Section 54957.6: BPOA; MMCEA, AFSCME, Unrepresented Management
- B. Conference regarding Public Employee Performance Evaluation Pursuant to Government Code Section 54957: City Manager

Attended by: Councilmembers Feierbach, Braunstein (arr. 6:40), Wozniak, Lieberman, Warden, City Manager Scoles, Interim City Attorney Kane, Police Chief Mattei, Police Captain DeSmidt, Finance Director Fil, Human Resources Director Dino, Labor Consultant Diana Doughtie. Deputy City Clerk Plut was excused from attending.

**RECESS:** to regular meeting at this time being 7:30 P.M. (Continued Closed Session Following Adjournment of Regular Meeting)

**Jozi Plut  
Deputy City Clerk**

This meeting was not audio or video recorded.

### **REGULAR MEETING CALL TO ORDER 7:40 P.M.**

#### **ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Braunstein, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, Interim City Attorney Kane, Finance Director Fil, Human Resources Director Dino, Community Development Director DeMelo, Parks and Recreation Director Gervais, Police Chief Mattei, Deputy Finance Director Lazzari, Police Captain DeSmidt, Interim Fire Chief Fry, Special Counsel Mark Mandel, City Treasurer Violet, Deputy City Clerk Plut

#### **PLEDGE OF ALLEGIANCE**

Led by Interim City Attorney Kane

#### **REPORT FROM CLOSED SESSION (held June 21, 2011 and earlier this evening)**

Interim City Attorney Kane stated that direction was given but not action was taken on the previously held closed sessions.

## **SPECIAL PRESENTATIONS**

### **Proclamation Honoring Police Sergeant Roy Digneo on his Retirement**

Police Chief Mattei provided a brief history of Sergeant Digneo's education and training. He included Sergeant Digneo's accomplishments and commendations throughout his career. He thanked him for his commitment to public service.

Mayor Feierbach read the Proclamation Honoring Police Sergeant Digneo. She and Councilmembers thanked him for his years of service with the Belmont Police Department.

**RECESS: 7:50 P.M. (to consider the Belmont Fire Protection District agenda)**  
**RECONVENE: 8:10 P.M.**

### **Update from Recology regarding new Solid Waste Service**

Gino Gasparini, Community Affairs Manager, presented a brief update on the trash and recycling services that Recology has provided since January 2011. He explained that many of the issues that residents had with the new service have been resolved. He acknowledged that other issues exist and all efforts are being made to resolve them. He noted that trash collection has decreased in Belmont since January while compost and recycling has increased due to the new services and public outreach. He stated that cart placement and pick up times are still issues that are being worked through on a case-by-case basis. He announced that a citywide shredding event will take place on July 16<sup>th</sup>.

Councilmember Lieberman noted that there is less disturbing noise generated in the early hours of the morning from the new collection trucks.

In response to Councilmember Wozniak, Community Affairs Manager Gasparini explained that there is some confusion over container use. He stated that Recology continues to educate residents on what types of materials should be placed in the various containers. He noted that single stream recycling is a huge success.

In response to Councilmember Braunstein, Community Affairs Manager Gasparini stated that drivers are instructed to remove bungee cords or other devices used to secure lids on the trash containers to keep animals out.

Mayor Feierbach expressed her appreciation to the Recology staff for organizing a tour took of the newly constructed recycling facilities.

Councilmember Warden expressed a need for more education on what types of materials should be placed in each container particularly the compost container.

Mayor Feierbach suggested placing comments on the E-bill stating that residents should place their containers out of sight after their weekly pickup. She also requested that drivers be instructed to

waive traffic through while collecting on City streets to avoid traffic backups.

### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Mayor Feierbach stated that City Hall offices will be closed Monday July 4<sup>th</sup> in observance of Independence Day.

Councilmember Braunstein stated that National Night Out will be August 2<sup>nd</sup>. He noted that six neighborhoods are planning on participating. The event is sponsored by the Belmont Chamber of Commerce and Oracle. He encouraged all residents to get involved.

### **CONSENT CALENDAR**

Council Member Feierbach requested discussion on Item 4-I Resolution Approving the Application for the State of California Statewide Park Development and Community Revitalization Program Round Two for the Design and Construction of Davey Glen Park.

In response to Mayor Feierbach, Parks and Recreation Director Gervais stated that much outreach has been provided on the park project including site design meetings. Outreach was conducted through email, press releases as well as flyers. He noted that more outreach is needed for the adjacent neighbors.

City Manager Scoles suggested a picture board of the project be posted at the site.

Mayor Feierbach stated that local neighborhood outreach is critical. She noted that a balance between the committees supporting the park and the immediate neighbors who may be unaware of the project is needed. Councilmember Wozniak concurred.

Councilmember Warden requested discussion on Item 4-K Resolution Calling and Giving Notice of the Regular Municipal Election on November 8, 2011. He expressed concern over a potential conflict of interest in the matter of the City Clerk managing the election since she herself would be a candidate.

Interim City Attorney Kane stated that if an opportunity for conflict should arise it would be the duty of the Clerk's staff to mitigate. She stated that she would look further into the matter and would provide Councilmember Warden with a clear answer to his concern.

Councilmember Lieberman requested discussion on Item 4-A Minutes of Special and Regular Meeting of June 14, 2011. He stated that the Minutes of June 14<sup>th</sup> did not reflect all that he said in the budget discussions on City rentals. He stated that it is noted that in periods of high demand there would be an opportunity to increase rates. However the minutes do not note his comment that in periods of low demands lowering rates will also generate revenues. He requested that the record to show that there may be opportunities to decrease rates as well as increase them. Council concurred to hold approval until a subsequent meeting so that the Clerk's Office can review the audiotape.

**Acceptance of** the Informational Report for the U.S. Highway 101 Pedestrian/Bicycle Bridge Project, City Contract Number 433

**Adoption of** Ordinance 1058 Amending Article IX of Section 7 of the Belmont Municipal Code Regarding Duties and Responsibilities of the Floodplain Administrator

**Adoption of** Ordinance 1059 Amending Article VI of Section 21 of the Belmont Municipal Code Regarding Discharges to the City's Storm Sewer System (2<sup>nd</sup> reading and adoption)

**Approval of** Resolution 10388 Accepting a Grant Deed from Nancy Lynne Schmitt and William Stephens Kalenborn for Real Property Consisting of One Legal Parcel on Bartlett Avenue (APN: 043-030-070)

**Approval of** Resolution 10389 Accepting Work, Approving As-Built Plans, and Authorization to Issue a Notice of Substantial Completion for the Ralston Avenue Curb Ramp Project, Phase I, City Contract Number 504

**Approval of** Resolution 10390 Approving a Professional Services Agreement with Wreco for an Amount not to Exceed \$99,700 and an Additional 10% Contingency of \$9,970 for the Hillman Avenue/Ruth Avenue Improvement Project, City Contract Number 511

**Approval of** Resolution 10391 Honoring Police Sergeant Roy Digneo upon his Retirement

**Approval of** Resolution 10392 Authorizing a Purchase Order for the Installation of Replacement Flooring at 503 Crestview Avenue to BR Flooring, Inc, for an Amount not to Exceed \$6,936.00

**Approval of** Resolution 10393 Authorizing the Interim City Attorney to Execute an Engagement of Legal Services with Meyers, Nave, Riback, Silver & Wilson for the Municipal Regional Stormwater Permit No. CAS612008 Unfunded Mandate Test Claim at No Direct Cost

**Approval of** Resolution 10394 Rejecting all Bids for the Sewer Rehabilitation Project City Contract Number 495

**Approval of** Resolution 10395 Approving the Application for the State of California Statewide Park Development and Community Revitalization Program Round Two for the Design and Construction of Davey Glen Park

**Approval of** Resolution 10396 Calling and Giving Notice of the Regular Municipal Election on November 8, 2011

**ACTION:** On a motion by Councilmember Wozniak and seconded by Councilmember Braunstein the consent calendar was approved as amended by a show of hands.

## **HEARINGS**

### **Public Hearing Pursuant to Provisions of Proposition 218 to Consider an Ordinance Increasing the City's Sewer Charges and to Consider Adoption of a Resolution Accepting the Report of Sewer Service Charges for Fiscal Year 2011-2012, and Directing the Filing of Charges for Collection by the County Auditor**

Finance Director Fil outlined the Proposition 218 process. He stated that tonight's meeting is to consider a protest to the proposed sewer rate increase. He explained that if a majority protest of the proposed sewer rates is not received the Council could consider adopting an Ordinance which will require a two-thirds vote to change the rates as well as a Resolution to transmit the rates to the County to appear on the 2011- 2012 tax bill. He explained protest process. He stated that the new

rate is an eight percent increase over the existing rates, which equates to about two dollars a month. He noted that the actual increase is 4.6 percent based on the number of units measured and a decrease in flow from the prior year. He noted that if the ordinance is not passed it would result in a decrease in revenue for the sewer program. He noted that the increase is presented in the Fiscal Year 2011-2012 budget but does not include debt service.

Co-Interim Public Works Director Gervais explained that if the ordinance is passed the Public Works Department would receive approximately \$400,000 dollars to support Sewer Operations and the Capital Improvement Program. He noted that the South Bayside System Authority (SBSA) treatment costs are rising and the proposed rate increase could be used to compensate. He stated that passage of the ordinance is key to maintain ongoing Operations and Capital Improvement Projects.

**ACTION:** Mayor Feierbach opened the Public Hearing. No one came forward to speak.

Deputy City Clerk Plut noted that twenty-two protest letters were received prior to the hearing.

In response to Councilmember Warden, Special Counsel Colantuono explained that the law requires a two-thirds vote to increase rates and a majority vote for the resolution to be transmitted to the County to place the fee on the tax roll. He noted that a resolution is required regardless of a rate increase. He further clarified the rate reporting process.

**ACTION:** On a motion by Councilmember Warden and seconded by Councilmember Braunstein the Public Hearing was unanimously closed by a show of hands.

Mayor Feierbach stated that she was not in support of increasing the sewer rates.

Councilmember Lieberman clarified that the SBSA rates will rise by eleven percent in Fiscal Year 2011. He noted that the eight percent proposed increase would cover the cost of the SBSA increase, but would not make any funds available to Belmont for its sewer services.

In response to Councilmember Wozniak, Finance Director Fil stated that in the last decade substantial improvements to infrastructure was made with the use of sewer capital funds.

Discussion ensued regarding rate increases over the past years.

Councilmember Lieberman noted that revenue will be lost if no action is taken on the rate increase due to conservation and the SBSA annual charge.

Finance Director Fil clarified that if no action is taken on the increase of rates the City will lose revenue. He stated that three and a half percent of the proposed increase would make up for the decrease in flow upon which the rates are based on.

Discussion ensued regarding decrease in flow and water usage.

Councilmember Warden stated that laterals and intrusions need to be addressed which generate many maintenance calls. He expressed his concern over the timing of the ordinance. He stated that he would not support the ordinance to increase the sewer rates.

Councilmember Braunstein stated that there is a need for the increase. He noted that there are many issues with the collection system that need to be addressed. He noted that not approving the rate increase will impede the Master Plan and put the City at a risk for breaks in the system and potential overflow to the Bay. He stated that he supports a proactive plan.

Councilmember Warden concurred with Councilmember Braunstein. He stated that he supports maintaining the system and going forward with the projects but does not support asking the tax payers for the funds to do so.

City Treasurer Violet stated that if no action is taken on the rate increase, the compliance of the Bond Covenants would be in jeopardy in the year 2012. He suggested that Council consider a minimal rate increase of 3.2 percent to comply with the debt covenants through 2015-16.

**ACTION:** On a motion made by Councilmember Wozniak and seconded by Councilmember Braunstein an Ordinance Increasing the City's Sewer Charges and to Consider Adoption of a Resolution Accepting the Report of Sewer Service Charges for Fiscal Year 2011-2012, and Directing the Filing of Charges for Collection by the County Auditor failed by a roll call vote (3-2, Warden, Feierbach no)

In response to Councilmember Lieberman, Special Counsel Mandel stated the Ordinance failed to pass because it did not receive the required two-thirds vote. He noted that if Council adopts the Resolution to convey the rate report, a motion will be needed to amend the report to reflect the continuation of the existing rates.

**ACTION:** On a motion made by Councilmember Warden and seconded by Mayor Feierbach, Resolution 10397 Accepting the Report of Sewer Service Charges for Fiscal Year 2011-2012, and Directing the Filing of Charges for Collection by the County Auditor was unanimously approved as amended by a show of hands.

## **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

### **Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Braunstein stated that expansion of emergency services within the County of San Mateo was discussed at a recent Office of Emergency Services (OES) meeting.

Councilmember Wozniak reported that she attended the Pacific Traffic Congestion Relief Alliance meeting. She noted that she will be serving on a benefits and salary subcommittee. She stated that the

High Speed Rail Authority received a federal grant dedicated to positive train control on the Peninsula.

**Verbal Report from City Manager**

City Manager Scoles stated that due to weather conditions the Highway 101 closure to accommodate night work on the Pedestrian and Bike Bridge has been delayed one day. He noted that the Police Department has noticed a rash of auto and home burglaries in the City due to residents not locking their doors. He noted that community outreach has been conducted. He stated that a recent Neighborhood Association Presidents meeting was well attended. Discussion included economic development, Fire Department update, Davey Glen Park, and Sewer Charge Fees. He stated that the Sixth Avenue and O'Neill Street Rehabilitation Project has begun. He noted that plans are underway for the Pedestrian Bike Bridge Ribbon Cutting Ceremony tentatively to be held on September 28, 2011. He stated the State Budget is still topic of interest especially as it relates to the Redevelopment Agencies. He stated that Assemblymember Jerry Hill's office issued a press release stating that SunEdison is a step closer to relocating to San Mateo County. He stated that Assemblymember Hill is working with SunEdison to clarify an existing law on tax benefits for the provision of solar equipment.

**ADJOURN** to Closed Session at this time being 9:30 P.M.

**Jozi Plut**  
**Deputy City Clerk**

Meeting video and audio recorded  
Audio recording 793

**CONTINUED CLOSED SESSION – 9:35 P.M.**

- B. Conference regarding Public Employee Performance Evaluation Pursuant to Government Code Section 54957: City Manager

Attended by: Councilmembers Feierbach, Braunstein, Wozniak, Lieberman, Warden, City Manager Scoles, Interim City Attorney Kane, Deputy City Clerk Plut was excused from attending.

**ADJOURNMENT:** at this time being 10:15 P.M.

This meeting was not audio or video recorded.

**Jozi Plut**  
**Deputy City Clerk**